

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

SEAN MACMASTER,

Plaintiff,

v.

DAVID BUSACCA, et al.,

Defendants.

Case No. 2:21-cv-11052

HONORABLE STEPHEN J. MURPHY, III

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**ORDER STRIKING AMENDED COMPLAINT [38]**

Plaintiff sued several Defendants in May 2021. ECF 1. Defendant Kolodziej was the first Defendant to file a responsive pleading; he moved to dismiss the complaint under Federal Rule of Civil Procedure 12(b). ECF 16. Nearly two months later, Plaintiff filed an amended complaint. ECF 38.

Civil Rule 15(a)(1) allows a plaintiff to amend a complaint as a matter of right within twenty-one days after serving it or twenty-one days after a defendant serves a Rule 12(b) motion. The twenty-one-day clock begins after the first responsive pleading or motion is served. *Evans v. City of Ann Arbor*, No. 21-10575, 2021 WL 2949502, at \*2–3 (E.D. Mich. July 14, 2021). Because Defendant Kolodziej served the first responsive motion more than twenty-one days ago, ECF 16, the time for Plaintiff to amend his complaint as a matter of right already expired under Rule 15(a). The Court will therefore order the clerk of the Court to strike the amended complaint, ECF 38, from the docket.

**WHEREFORE**, it is hereby **ORDERED** that the Clerk of the Court must **STRIKE** the amended complaint [38] from the docket.

**SO ORDERED.**

s/ Stephen J. Murphy, III  
STEPHEN J. MURPHY, III  
United States District Judge

Dated: September 1, 2021

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on September 1, 2021, by electronic and/or ordinary mail.

s/ David P. Parker  
Case Manager